



WEB COPY

WP Nos. 37477 & 37478 of 2015



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP Nos. 37477 & 37478 of 2015

1. S. Jegannathan

Son of Mr.Sababathy, No.1/62,
Neelothbalapuram Village, Gandhi
Nagar, Saanoormallavaram Post,
Erumbi Taluk, Thiruvallur District

Petitioner(s)

Vs

1. The Presiding Officer

Principal Labour Court, Vellore District

2.The Management of Real

Talent Engineering Ltd, Showa
Division, No.42, Walaja Road,
Melvenkatapuram, Perunkananchi,
Sholingar, Vellore District

3.The Management of Midrange

Components No.42, Walaja Road,
Melvenkatapuram, Perunkananchi Post,
Sholinganallur

Respondent(s)



WP No. 37478 of 2015

1. R. Elumalai

Son of M.Rathinam, Katrambakkam
V.P.Ammur Via, Valaja Taluk, Vellore
District

Petitioner(s)

Vs

1. The Presiding Officer
Principal Labour Court, Vellore District

2.The Management of Real
Talent Engineering Ltd, Showa
Division, No.42, Walaja Road,
Melvenkatapuram, Perunkananchi,
Sholingar, Vellore District

3.The Management of Midrange
Components No.42, Walaja Road,
Melvenkatapuram, Perunkananchi Post,
Sholinganallur

Respondent(s)

COMMON PRAYER

calling for the records of the first respondent in connection with the award pronounced in I.D.No.82 & 83 of 2013 dated 21.07.2015 and quash the same and direct the third respondent management to reinstate the petitioners in service with full back wages, continuity of service with all other attendant benefits

In both W.P's

For Petitioner(s): M/s K. Sudalaikannu



WEB COPY



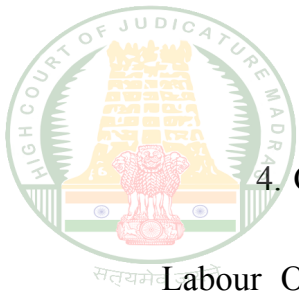
For Respondent(s): R1 - LABOUR COURT.
M/S.S.RAVINDRAN,sr. counsel
for S.BAZEER AHAMED FOR
R2

COMMON ORDER

The short point to be considered in these two writ petitions is whether a contract employee, who was paid salary by the contractor and whose EPF records refer to the contractor as employer, could sue the management, seeking reinstatement and connected reliefs after the management has retrenched them?

2. Since the issue involved in both the writ petitions are one and the same they are disposed of by way of this common order.

3. In the affidavit filed in support of the writ petition, the petitioners have stated that they were appointed in the second respondent factory as operator. According to them, after they have put in more than a decade and half of service, they were issued with an order dated 01.10.2008 appointing them as “Fixed term employment workman” and that their tenure would be till 30.09.2011. However, on 16.11.2010, the petitioners were served with a termination order.



4. Challenging the same, the petitioners raised an industrial dispute before the Labour Officer, Vellore. However, the conciliation proceedings ended in failure.

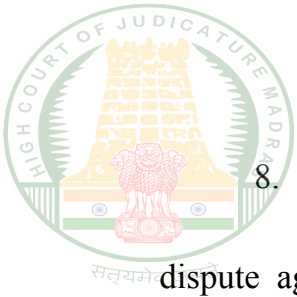
WEB COPY

Thereafter, the petitioners filed proceedings in I.D.Nos.82 and 83 of 2013 before the Principal Labour Court, Vellore. The Labour Court rejected the prayer by way of the impugned order, dated 21.07.2015. Challenging the same, the present writ petitions are filed.

5. The second respondent has filed a detailed counter-affidavit stating that the petitioners were appointed for a fixed period, as there was such a need at that time. However, due to business reasons, the respondents could not continue the services of petitioners and therefore, they were terminated from service by order dated 16.11.2010. The petitioners were given one month salary in lieu of notice.

6. Heard both sides and perused the materials available on record.

7. Prima facie, the petitioners have to prove that they were directly employed under respondents 2 and 3. Only after they cross this hurdle, they would be entitled to seek other reliefs from the management.



WEB COPY

8. Initially, before the Labour Officer, the petitioners raised an industrial dispute against one V.M.Parthasarathy, contractor, under whom they worked. The petitioners contended that the said Parthasarathy was not a licensed contractor and that there was no agreement between him and the second respondent. When Parthasarathy filed his reply statement and documents to prove that he was indeed a licensed contractor under the second respondent, the petitioners dropped the said proceedings and filed another dispute.

9. The issue of non-employment of petitioners was thereafter adjudicated before the first respondent. The petitioners contended that they were employed under the second respondent and that they were paid wages through a sham contractor and that their termination was in violation of Section 25F and 25N of the ID Act.

10. Even in the affidavit filed in these writ petitions, the petitioners themselves have admitted that they were not given written appointment order. Employment under a contractor cannot be deemed to be a regular service. Petitioners have also accepted in the cross examination that EPF records refer to Parthasarathy as employer and that Ex.W-9 refers to salary receipt given by Parthasarathy.



WEB COPY

11. Labour Court has therefore held that petitioners were unable to prove their employment with the second respondent prior to October 2008. The Labour Court has also noted that the petitioners were impleading different parties during different proceedings which showed that they changed their claim in accordance with the course and development of proceedings.

12. The management has proved that the petitioners were only contractual workers and they were not employees directly working under respondents 2 and 3.

Section 2(oo) of the I.D. Act defines 'retrenchment' as under:

“2(oo) “retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

[(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a



WEB COPY



stipulation in that behalf contained therein; or]

(c) termination of the service of a workman on the
ground of continued ill-health”

12. The petitioners, by no stretch of imagination, could be termed as 'employees'. They are only contractual employees under the said Parthasarathy. The petitioners do not have any direct claim against respondents 2 and 3. The rights of the contractual employees are very limited. They cannot equate themselves with those who were directly employed by the management.

13. The management has clearly proved that these petitioners were not directly recruited or employed by them. The Labour Court was perfectly justified in upholding the retrenchment order passed by the management. Therefore, while confirming the award passed by the Labour Court these writ petitions are dismissed. No costs.

12-03-2025

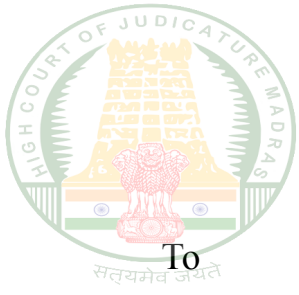
RAP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

WEB COPY

1. The Presiding Officer

Principal Labour Court, Vellore District

2. The Management of Real

Talent Engineering Ltd, Showa

Division, No.42, Walaja Road,

Melvenkatapuram, Perunkananchi,

Sholingar, Vellore District

3. The Management of Midrange

Components No.42, Walaja Road,

Melvenkatapuram, Perunkanchi Post,

Sholinganallur



WEB COPY

WP Nos. 37477 & 37478 of 2015



M.DHANDAPANI J.

RAP

**WP Nos. 37477 & 37478
of 2015**

12-03-2025